REMARKS

The Applicant has carefully reviewed the Final Office Action mailed April 20, 2007 and offers the following remarks to accompany the above amendments.

Claims 1-8, 10, 11, 15, 17-25, 27, 28, 32, and 34-36 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,631,188 B1 to *Sands* (hereinafter "*Sands*"). The Applicant has cancelled claims 18, 35, and 36, thereby rendering the rejection of these claims moot. The Applicant respectfully traverses the rejection as applied to the remaining claims.

According to Chapter 2131 of the M.P.E.P., in order to anticipate a claim under 35 U.S.C. § 102, "the reference must teach every element of the claim." The Applicant submits that *Sands* does not teach every element recited in claims 1-8, 10, 11, 15, 17, 19-25, 27, 28, 32, and 34.

In particular, claim 1 has been amended to recite a method for selectively controlling a provision of a call waiting alert comprising, among other features, "providing an instruction instructing the telephony switch whether to provide the call waiting alert to the user's telephone terminal" where an incoming call indication has been received from the telephony switch. Claim 19 has been amended to include similar features. The Applicant submits that *Sands* does not disclose providing an instruction to a telephony switch which instructs the telephony switch to either provide or not provide a call waiting alert to a user's telephone terminal. In maintaining the rejection, the Patent Office asserts that elements 138 or 148 in Figure 5 of *Sands* disclose this feature.[1] The Applicant respectfully disagrees. At most, *Sands* discloses that in a step 138, a program "provides a call waiting alert indication to the called party via the called party's telephone terminal" and in a step 148 a program "proceeds to step 148 with the incoming call receiving a default or other call processing such as a busy signal, routing to voice mail, automatic call back, etc."[2] Thus, according to *Sands*, a program provides the functionality and instructions described in steps 138 and 148. However, nowhere does *Sands* disclose providing an instruction to a telephony switch instructing the telephony switch to either provide or not provide a call waiting alert to a telephone terminal. For this reason, claims 1 and 19 are patentable over *Sands* and the Applicant requests that the rejection be withdrawn. Likewise, claims 2-8, 10, 11, 17, 20-

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[1] *See* Final Office Action mailed April 20, 2007, page 2.
[2] *See Sands*, col. 6, lines 15-17 and 29-32.

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25, 27, 28, and 32, which ultimately depend from claim 1 or 19, are patentable for at least the same reasons along with the novel features recited therein.

Claim 15, which depends from claim 1, recites that "the call waiting rule set is customized such that providing the call waiting alert is based at least in part on a relative priority or urgency associated with the incoming call." Claim 34, which depends from claim 19, includes similar features. The Applicant submits that *Sands* does not disclose a call waiting rule set which is customized such that providing the call waiting alert is based at least in part on a relative priority or urgency associated with the incoming call. In maintaining the rejection, the Patent Office asserts that *Sands* discloses this feature at col. 6, lines 1-13.[3] The Applicant respectfully disagrees. While the cited portion of *Sands* does disclose identifying an incoming calling ID and looking up the ID, the cited portion does not disclose that a call waiting rule set is customized such that providing the call waiting alert is based at least in part on a relative priority or urgency associated with the incoming call. In fact, the Applicant has reviewed the remaining portions of the reference and submits that nowhere does the reference disclose these features. Accordingly, in addition to the reasons noted above with reference to claims 1 and 19, claims 15 and 34 are patentable over the cited reference and the Applicant requests that the rejection be withdrawn.

Claims 1, 9, 12-14, 16, 19, 26, 29-31, and 33 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0141559 A1 to *Gurgun* (hereinafter "*Gurgun*"). The Applicant respectfully traverses the rejection.

The Applicant submits that *Gurgun* does not disclose all the features recited in claim 1. To further illustrate, claim 1 recites a method for selectively controlling a provision of a call waiting alert comprising, among other features, "providing an instruction instructing the telephony switch whether to provide the call waiting alert to the user's telephone terminal" where an incoming call indication has been received from the telephony switch. Claim 19 includes similar features. The Applicant submits that *Gurgun* does not disclose providing an instruction to a telephony switch which instructs the telephony switch to either provide or not provide a call waiting alert to a telephone terminal. The Patent Office supports the rejection by stating that element 650 in Figure 6 of *Gurgun* relates to this feature.[4] The Applicant

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[3] *See* Final Office Action mailed April 20, 2007, page 4.
[4] *See* Final Office Action mailed April 20, 2007, page 5.

respectfully disagrees. While the element 650 disclosed in *Gurgun* does disclose notifying a current user of a device of an incoming call if call activation is allowed, the element 650 does not disclose providing an instruction to a telephony switch instructing the telephony switch to either provide or not provide a call waiting alert to a telephone terminal.[5] In fact, *Gurgun* teaches that a phone switch stores a user profile which is used to perform selective call waiting, thus the phone switch determines if a current user of a device should receive notification of an incoming call.[6] As *Gurgun* teaches that the phone switch determines if a current user of a device should receive notification of an incoming call, *Gurgun* cannot disclose providing an instruction to a telephony switch which instructs the telephony switch to either provide or not provide a call waiting alert to a telephone terminal. For this reason, claims 1 and 19 are patentable over the cited reference and the Applicant requests that the rejection be withdrawn. Similarly, claims 9, 12, 14, 26, 29, and 33, which ultimately depend from claims 1 or 19, are patentable for at least the same reasons along with the novel features recited therein.

Claim 13, which depends from claim 1, recites that "the call waiting rule set is customized such that providing the call waiting alert is based at least in part on a party with whom the user is engaged in the active call." Claim 30, which depends from claim 19, includes similar features. The Applicant submits that *Gurgun* does not disclose the feature of customizing a call waiting rule set such that providing the call waiting alert is based at least in part on a party with whom a user is engaged in an active call. In maintaining the rejection, the Patent Office states that *Gurgun* discloses this feature in paragraphs **[0019]** – **[0023]**.[7] The Applicant respectfully disagrees. At most, the cited portion of *Gurgun* discloses that a user may configure a list of users who are allowed to activate call waiting and a set of users who are not allowed to activate call waiting. However, nowhere does *Gurgun* disclose customizing a call waiting rule set such that providing the call waiting alert is based at least in part on a party with whom a user is engaged in an active call. For this reason and the reasons noted above with respect to claims 1 and 19, claims 13 and 30 are patentable over the cited references and the Applicant requests that the rejection be withdrawn.

Claim 16, which depends from claim 1, recites that "the call waiting rule set is customized such that providing the call waiting alert is based at least in part on previously called

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[5] *See Gurgun*, paragraph **[0021]** and Figure 6.
[6] *See Gurgun*, paragraph **[0021]**.
[7] *See* Final Office Action mailed April 20, 2007, page 5.

parties." Claim 31, which depends from claim 19, includes similar features. The Applicant submits that *Gurgun* does not disclose the feature of customizing a call waiting rule set such that providing the call waiting alert is based at least in part on previously called parties. The Applicant has reviewed the Office Action and submits that the Patent Office has not provided a rationale for rejecting claims 16 and 31, aside from generally indicating that claims 16 and 31 are anticipated by *Gurgun*. In spite of this shortcoming, the Applicant has reviewed *Gurgun* and submits that nowhere does the reference disclose the features recited in claims 16 and 31. Thus, claims 16 and 31 are patentable over the cited references and the Applicant requests that the rejection be withdrawn.

The present application is now in a condition for allowance and such action is respectfully requested. The Examiner is encouraged to contact the Applicant's representative regarding any remaining issues in an effort to expedite allowance and issuance of the present application.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By:

Anthony J. Josephson
Registration No. 45,742
100 Regency Forest Drive, Suite 160
Cary, NC 27518
Telephone: (919) 238-2300

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